

REMARKS

Reconsideration of this application is requested.

The specification has been amended to include headings as suggested by the Examiner.

The original claims have been rewritten as claims 12-31 in order to obviate the Examiner's objections as set out in the ¶ bridging pages 2-3 of the action and the first full ¶, page 3, as well as the Section 112, 2nd ¶ rejection as set out at page 5, 1st and 2nd full ¶s of the action.

The manner in which the Examiner's objections and Section 112 rejection have been obviated is thought to be self-evident. For example, references to preferred embodiments have been made the subject of separate claims and claim dependence has been corrected.

The new claims correspond as follows with the original claims subject to amendments dealing with the Examiner's objections:

<u>New</u>	<u>Original</u>
Claim 12	Claim 1
Claim 13	Claim 1 preference
Claim 14	Claim 2
Claim 15	Claim 2 preference
Claim 16	Claim 3
Claim 17	Claim 3 preference
Claim 18	Claim 4
Claim 19	Claim 4 preference
Claim 20	Claim 5
Claim 21	Claim 5 preference
Claim 22	Claim 5 further preference

<u>New</u>	<u>Original</u>
Claim 23	Claim 6
Claim 24	Claim 7
Claim 25	Claim 8
Claim 26	Claim 9
Claim 27	Claim 9 preference
Claim 28	Claim 9 further preference
Claim 29	Claim 10
Claim 30	Claim 11
Claim 31	Claim 11 preferences

The Examiner will note that, as the claims are now presented, broad limitations are not combined with narrower preferences in the same claim; dependence has been conformed with U.S. practice; the rewritten version of claim 3 (claim 16) correctly refers to “mean weight diameter”; claim 26, replacing claim 9, recites the properties in Markush form; reference to “in particular” is not included in claim 29 (rewritten claim 10); and claim 30 (rewritten claim 11) recites the process steps in active form.

Additionally, it is to be noted that the diameter referred to in claims 16 and 20 (replacing claims 3 and 5) is in microns as the original claims also recited.

It is also noted that, in rewriting claim 1 as claim 12, further language, based on the applicants’ disclosure at page 2, 1st full ¶, has been included to specify that the applicants’ matrix forms a network wherein the active solid organic component is incorporated. This feature serves to highlight novel aspects of the applicants’ invention.

The Examiner is requested to reconsider and withdraw the objections to the claims and the Section 112, 2nd ¶ rejection thereof in view of the new claims.

Additionally, the Examiner is requested to reconsider and withdraw the alternative Section 102(b)/103(a) rejections of claims 1 and 6-9 based on Cherukuri (5,587,172) in

view of Perry; claims 1, 3 and 5-8 based on Janda (5,418,010); claims 1, 3, 5, 6 and 8 based on Villamar (5,698,246) and claims 1, 5 and 6 based on Kondo (4,102,806) in view of Perry. The references do not disclose or suggest the applicants' invention as defined by the original claims or by the claims presented herein.

Initially it is noted that original claim 4 was not rejected on the art. Hence, claims 18 and 19, which replace claim 4, should be allowable on the record.

All of the applicants' other claims are also thought to define subject matter which is novel and unobvious from the Examiner's references.

More specifically, Cherukuri discloses products that are fundamentally different from the applicants' products in that in the applicants' products, the active components are present in structured particulate systems wherein the actives are incorporated in a network of the matrix. This is not the case for the reference products. See in this regard, Col. 6, lines 23-57 of the reference wherein it is disclosed that for the processing, the matrix must be a shearform (which is defined at Col. 6, lines 28-57 as being the result of either flash flow processing or of flash heat processing).

In the applicants' process to make the structured particulate systems, a fluid bed is formed in an expansion chamber of a mix of actives and matrix materials and a suspension of actives in water is sprayed onto the fluid bed, followed by drying. The applicants' process cannot result in a matrix in a shearform.

Clearly, in the circumstances, Cherukuri does not disclose the applicants' system where the matrix is in network form with the actives incorporated therein. The deficiencies of Cherukuri are highlighted by the reference disclosure at Col. 4, lines 58 to

67, wherein it is indicated that the actives are incorporated in a crystalline structure. The applicants' matrix network is not crystalline. Furthermore, the reference teaches, at Col. 8, lines 22-28, that the shearform matrix is retrieved from processing before combining with the additives. This would necessarily prevent the actives from becoming part of a network of the matrix as the applicants require.

Perry adds nothing to fill in the indicated and substantive deficiencies of Cherukuri.

Janda fails for essentially the same reasons as Cherukuri. Janda discloses a process for the preparation of microencapsulated products wherein a dispersion is made of core material in a protein slurry, which slurry is melted and the protein is denaturated causing encapsulation whereupon the encapsulated core material is comminuted (Col. 2, lines 26 to 37). This process is thus completely different from the applicants' process and cannot lead to products wherein the actives are present in a network of the matrix.

It is also noted that Janda does not disclose features of the applicants' dependent claims, e.g. the matrix materials called for in claim 25. This provides further basis for the allowance of the applicants' dependent claims over Janda.

Villamar does not disclose or suggest the applicants' products or processes. The Villamar products are liquid foodstuffs that include oil-coated nutrient feed particles embedded in a gel or a food in a polymer blend (Col. 2, lines 31 to 36). This is far removed from the applicants' products. Furthermore, it is noted that the Villamar product is made by a process disclosed in Col. 2, lines 41 to 65 and Col. 4, lines 6 to 20. This process does not involve the use of a fluid bed and spraying or drying techniques

and will not result in a structured particulate system wherein the actives are present in a network of the matrix, as the applicants require.

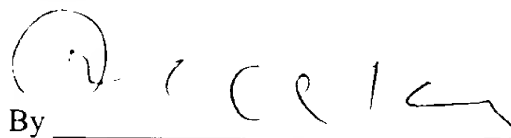
Finally, it is noted that Kondo relates to a process for the preparation of microcapsules wherein an oil and fat is dissolved in an organic solvent, whereupon the core material is dispersed in the solution and cooled to coarsen the oil and fat on the core material after which a particulate product is separated and dried. This process will not result in a system wherein actives are present in a network of matrix material as is the case in the applicants' products. Clearly, therefore, Kondo does not anticipate the applicants' products or otherwise make them obvious. Perry, as noted with Cherukuri, does not fill in the deficiencies of Kondo.

In summary, the applicants submit that their claims are in proper form and define subject matter which is new and unobvious from the Examiner's references.

Accordingly, favorable reconsideration with allowance is requested.

Respectfully submitted,

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By \_\_\_\_\_

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APPENDIX  
Version with Markings to Show Changes Made

IN THE SPECIFICATION

The following headings have been inserted:

Page 1, after the title:

Background of the Invention

(1) Field of the Invention

The invention relates to a structured particulate system which is particularly useful for incorporating solid organic components into foods.

(2) Description of Related Art

Page 1, between lines 23 and 24:

Brief Summary of the Invention

Page 2, between lines 4 and 5:

Detailed Description of the Invention

IN THE CLAIMS

Claims 1 - 11 are being canceled without prejudice.

New claims 12 - 31 are being added.